

REMARKS

Favorable reconsideration is respectfully requested in view of the foregoing amendments and following remarks.

The specification and claims have been amended to correct the spelling of the term "erucinic" to read "erucic".

The objection to the disclosure is deemed to be overcome by these amendments.

Claims 1, 3, 4, 7 and 12 were rejected under 35 USC 103 as being unpatentable over Giddey et al., in view of Swern and Padley. This ground of rejection is respectfully traversed as applied to the claims after the foregoing amendments.

Claims 6 and 11 were not encompassed by the rejection. The subject matter of claims 6 and 11 have been incorporated into independent claims 1 and 7, respectively. Accordingly, this ground of rejection is deemed to be overcome.

Further, the references, Giddey (USP 5,004,623) and Swern (article), do not teach or suggest the foaming of tri-saturated fatty acid glycerides. Padley (USP 5,508,048) teaches anti-blooming properties of erucic oils, but does not teach or suggest its foaming. Sassen (WO 95/07620) does not teach or suggest the foaming of tri-saturated fatty acid glycerides, either. Therefore, even if these references are combined, they do not teach or suggest the foamed chocolate having the specific gravity and its production process of the present invention.

Accordingly, this ground of rejection is deemed to be overcome.

Claim 2 was rejected under 35 USC 103 as being unpatentable over the above combination of references and further in view of Loders.

Since claim 2 is dependent upon claim 1, this ground of rejection is deemed to be overcome for the same reasons as discussed above with respect to claim 1.

Claim 5 was rejected under 35 USC 103 as being unpatentable over the above combination of references and further in view of Sassen.

Again, since claim 5 is dependent upon claim 1, this ground of rejection is deemed to be overcome for the reasons discussed above with respect to claim 1.

Claims 13-18 were rejected under 35 USC 102 as being anticipated by Cain et al.

This ground of rejection is respectfully traversed.

It should be noted that the composition claimed in claims 13-18 contain crystals of tri-saturated fatty acid glycerides dispersed in fats and oils. As described on page 11, line 25 to page 12, line 22 of the specification, the crystalline state of tri-saturated fatty acid glycerides is essential in the present invention.

On the other hand, the reference, Cain et al. (USP 5,731,027) merely discloses a blend of a sugar and a fat component having a specific triglyceride composition and does not teach or suggest a crystalline state of tri-saturated fatty acid glycerides which is an essential feature of claims 13-18.

Accordingly, the cited reference fails to anticipate the rejected claims.

Claims 15 and 18 were rejected under 35 USC 112, second paragraph, as being indefinite on the basis of the description "low melting point fat" as being a hard butter. The term "low melting point" has been removed from the description of the fats and oils as being unnecessary, since the meaning of this term was intended to simply mean that the fats and oils have melting point lower than that of the glycerides. Please see claims 13 and 16.

Accordingly, this ground of rejection is deemed to be overcome in view of the foregoing amendments.

Lastly, the Examiner kindly indicated that claim 6 was objected to as being dependent upon a rejected claim but would be allowable if rewritten in independent form including the limitations of the base claim and any intervening claims. Claim 1 has been so amended, accordingly, it is believed that claims 1-5 as well as the remainder of the claims, are now in condition for allowance.

Favorable reconsideration and allowance is solicited.

Respectfully submitted,

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